

IN THE HIGH COURT OF JUDICATURE FOR RAJASTHAN AT
JODHPUR

ORDER

S.B.CRIMINAL MISC. PETITION NO. 29/2006
(Goverdhanlal Vs. State of Rajasthan & Anr.)

Date of Order : 10/08/2006

PRESENT

HON'BLE MR. JUSTICE H.R.PANWAR

Mr. Manish Pitliya for the petitioner.
Mr. Ashok Upadhyay, public prosecutor.
Mr. Sunil Mehta for the non-petitioner No.2.

BY THE COURT:-

By the instant criminal misc. petition under Section 482 Cr.P.C., the petitioner has challenged the order dated 27.6.2005 passed by Additional Sessions Judge No.1, Chittorgarh (for short 'the revisional court' hereinafter), whereby the revision petition filed by the petitioner against the order dated 02.09.2003 passed by Chief Judicial Magistrate, Chittorgarh (for short 'the trial court' hereinafter) taking cognizance of the offences under Section 447 IPC and issuing process against the petitioner, was dismissed.

I have heard learned counsel for the parties.
Carefully gone through the order of the trial court as well as of

the revisional court.

It is contended by the learned counsel for the petitioner that the trial court has misread the document site map while taking cognizance against the petitioner. He further contended that the matter is of civil nature. The matter has been decided in favour of the petitioner by a Civil Court. As against this, learned counsel appearing for the non-petitioner No.2 submits that the order passed in favour of the petitioner has been stayed.

Be that as it may, it cannot be considered at this stage whether the matter is of civil nature. Even otherwise, even if the matter is of civil consequence, then also, criminal proceeding is not barred in view of decisions of Hon'ble Supreme Court in *Lalmuni Devi (Smt.) Vs. State of Bihar & ors.*, (2001) 2 SCC 17, *Alpic Finance Ltd. Vs. P. Sadasivan & Anr.*, (2001) 3 SCC 513, *M. Krishnan Vs. Vijay Singh & Anr.*, (2001) 8 SCC 645.

Learned counsel appearing for the non-petitioner submits that both the courts below after examining the material placed before the trial court prima-facie came to the conclusion that there is prima-facie sufficient ground to proceed against the petitioner for the offence noticed above. Learned counsel further submits that the petitioner has already availed the remedy of revision under Section 397 Cr.P.C. and in the garb of a petition

under Section 482 Cr.P.C., the petitioner seeks second revision.

On careful perusal of the orders passed by the trial court, it appears that the material which was placed before the trial court has been properly considered and prima-facie, the trial court was satisfied that there is ground to proceed against the petitioner for the offence noticed above. On further examination of the record, the revisional court also came to the conclusion that the conclusion arrived at by the trial court is just and proper. In this view of the matter, it cannot be said that the order impugned would result in serious miscarriage of justice or abuse of process of the Court.

The petition has no force and is therefore, dismissed.
Stay petition also stands dismissed.

(H.R.PANWAR),J.

Rp